

Application Serial No.: 09/173,134  
Amendment dated September 29, 2006  
Responsive to Board Decision dated July 31, 2006

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### REMARKS

This Amendment is being filed in response to an Office Action mailed on June 2, 2004. Claims 1-3 and 8-9 are pending in this application and stand rejected, of which claims 1, 3, 8 and 9 are independent. In this Amendment, all the independent claims 1, 3, 8 and 9 have been amended and claims 10-19 have been added. Support for the amendments and the new claims can be found on at least pages 7-8 of the specification as originally filed. Applicants respectfully maintain that the claims have been amended to better clarify the Applicants' invention. Applicants respectfully submit that all the pending claims, claims 1-3 and 8-19 are in condition for allowance.

### Rejection under 35 U.S.C. §103(a)

In the Office Action, and affirmed by the Board of Patent Appeals and Interferences ("Board"), claims 1 and 2 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,989,545 to Sheaffer et al. ("Sheaffer") in view of Applicants' Admitted Prior Art ("AAPA"), and claims 3 and 8-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sheaffer in view of U.S. Patent No. 5,894,816 to Coiro et al. ("Coiro"). Without conceding to the correctness of the Examiner's assertions and the decision by the Board, Applicants hereby amend all the pending independent claims to require a feeder assembly suitable for providing food and/or fluids at different heights according to the size and/or species of the animal housed in the cage.

Applicants respectfully submit that the invention as claimed is directed toward a cage assembly that can be used to house different species of animals, rather than requiring specific cage dimensions for each animal species, varying according to the size of the animal. In

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accordance therewith, claims 1-3 and 8-10 provide a feeder assembly that can properly feed the animals of different sizes by adjusting the height at which the animal can access the food and/or fluids, depending on the species of the animal housed in the cage. More specifically, independent claims 1, 8 and 9, as amended herein, recite "a feeder assembly constructed and arranged to adjust the height at which food and/or fluids is available to an animal according to the species of the animal in the cage bottom." Applicants respectfully submit that such a feeder assembly as claimed herein is neither taught nor suggested in Sheaffer, Coiro, or AAPA, taken alone or in combination.

The feeder used in Sheaffer and Coiro, in contrast to the invention, includes a wire bar lid on which a water bottle or food is placed. The wire bar lid is not adjustable and the water bottle cannot extend past the wire bar lid. Furthermore, consistent with common practice in the art, Sheaffer, Coiro and AAPA are all directed to housing a single size animal in a cage, rather than using the same cage to house animals of various sizes. Therefore, the height of the cage in Sheaffer, Coiro and AAPA is determined depending on the size of the animal that is being housed therein. Likewise, a feeder is provided which is constructed, sized and arranged to provide food and/or fluids to the particular sized animal. Therefore, there would be no need in Sheaffer, Coiro or AAPA to adjust the height at which the animal can access the food or fluids, since the size of the animal and the height of the cage remain substantially constant. Thus there would have been no motivation to modify Sheaffer, Coiro or AAPA to provide "a feeder assembly constructed and arranged to adjust the height at which food and/or fluids is available to an animal according to the species of the animal in the cage bottom" as claimed herein.

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Therefore, Sheaffer, Coiro and AAPA, taken alone or in combination, fail to teach or suggest the invention as claimed in claims 1-3, 8-10 and 13-19.

Furthermore, regarding new independent claim 11, because Sheaffer, Coiro and AAPA are directed to housing a specific size or species of animals in the cage, they do not require or benefit from feeders having different heights. Therefore, Sheaffer, Coiro and AAPA, taken alone or in combination, fail to teach or suggest claim 11 and claim 12 depending therefrom, which require "the cage bottom being constructed and arranged to receive feeder assemblies of different heights; the cage bottom and feeder assembly working together to provide food and water to animals of different sizes."

Accordingly, Applicants respectfully submit that all outstanding rejections have been addressed and are now either overcome or moot, and that all the pending claims are patentable over the prior art. Accordingly, favorable consideration and prompt allowance of this application are respectfully requested.

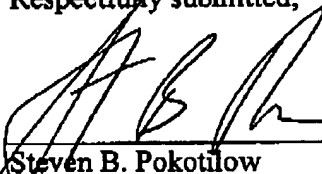
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No fee, other than the fee for the Request for Continued Examination submitted herewith, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, the Examiner is hereby authorized to charge the amount of such fee to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

Respectfully submitted,



Steven B. Pokotilow  
Registration No. 26,405  
Attorney for Applicants  
STROOCK & STROOCK & LAVAN LLP  
180 Maiden Lane  
New York, New York 10038-4982  
(212) 806-5400